

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte MATHEW MCPHERSON

Application No.09/852,253

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was received at the Board of Patent Appeals and Interferences (BPAI) on March 30, 2004. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to tech center 2800. The matters requiring attention prior to docketing are identified below:

The examiner mailed an examiner's answer on March 26, 2004 in response to appellant's brief filed on November 28, 2003.

Section 1208.03 of the Manual of Patent Examining Procedure (8th ed., rev. 1 February 2003) states:

Application No. 09/852,253

Under 37 CFR 1.193(b)(1), appellant may file a reply brief as a matter of right within **2 months** from the mailing date of the examiner's answer or supplemental examiner's answer. . . . [emphasis added].

With respect to the 2 month time period for appellant to file a reply brief as stated above, appellant has until May 26, 2004 to file such reply. It is premature to send this application to the BPAI until the time limit has expired.

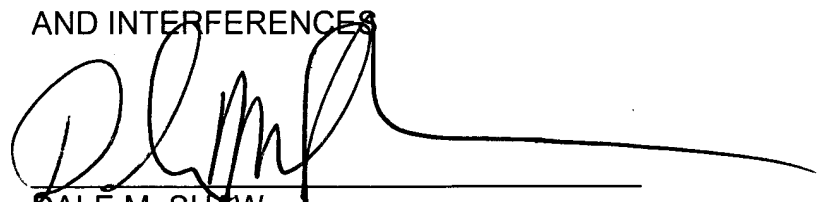
Accordingly, it is

ORDERED that the application is being returned to the Examiner/Tech Center 2800 to be retained until the appropriate time limit for the response has expired and for such further action as may be appropriate.

It is important that the Board of Patent Appeals and Interferences be informed promptly of any action affecting the status of the appeal (i.e., abandonment, issue, reopening prosecution).

BOARD OF PATENT APPEALS
AND INTERFERENCES

By:

A handwritten signature in black ink, appearing to read 'D. M. Shaw', is written over a horizontal line.

DALE M. SHAW
Program and Resource Administrator
(703) 308-9797

cc: VIDAS, ARRETT & STEINKRAUS, P.A.
6109 BLUE CIRCLE DRIVE
SUITE 2000
MINNETONKA, MN 55343-9185

DMS/vsh

RA04-~~0~~0423